

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MELISSA STACEY,

Plaintiff,

vs.

LEGAL RECOVERY LAW OFFICES,
INC., et al.

Defendants.

CASE NO. 13cv494-LAB (NLS)

**ORDER GRANTING JOINT
MOTION FOR EXTENSION OF
TIME TO ANSWER;**

**ORDER ACCEPTING AMENDED
COMPLAINT AS FILED; AND**

**ORDER DENYING AS MOOT
MOTION TO DISMISS**

On April 17, 2013, the parties jointly moved to extend the time by which Defendants must answer or otherwise respond. Then on April 26 they filed a motion to dismiss, which, under Fed. R. Civ. P. 12(a)(4), extends the time to respond. The Court will therefore treat the joint motion as a motion to permit Defendants to file their motion to dismiss after the usual deadline. So construed, the joint motion is **GRANTED**. Defendants need not answer or otherwise respond until the time prescribed by Rule 12(a)(4).

After the motion to dismiss was filed, Plaintiff filed an amended complaint. (Docket no. 6.) The amended complaint was untimely, under Fed. R. Civ. P. 15(a)(1)(B). But in view of the Federal Rules' admonition that the Court should freely give leave to amend when justice so requires, see Rule 15(a)(2), the amended complaint is **ACCEPTED AS FILED**.

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In spite of having filed the amended complaint, Plaintiff Melissa Stacey filed an opposition to the motion to dismiss claiming the original complaint was acceptable, but in the alternative requesting leave to amend. Apparently this was Stacey's fall-back position, in case the late-filed amended complaint was not accepted.

5 Because the amended complaint is being accepted as filed, the motion to dismiss is
6 **DENIED AS MOOT** and the hearing currently on calendar for Monday, June 10, 2013 at
7 11:30 a.m. is **VACATED**.

9 || IT IS SO ORDERED.

10 | DATED: June 5, 2013

Larry A. Bunn

HONORABLE LARRY ALAN BURNS
United States District Judge